

REMARKS

Support for the amendment to claim 3 can be found, for example, on page 7, lines 15-17 of the specification. Support for new claim 10 can be found, for example, in the specification at page 4, lines 1-2. Support for new claim 11 can be found, for example, in original claim 5. Support for new claims 12 and 13 can be found, for example, in the specification at page 6, lines 1-6. Support for new claim 14 can be found, for example, in the specification at page 6, lines 23-25.

Rejections under 35 USC §112

It is believed that the amendments to the claims address the rejections under 35 USC 112.

Rejections under 35 USC §102

Claims 1,2,5, 6 and 8 stand rejected under 35 USC §102 as allegedly being anticipated by Fischer et al. (US 4,302, 480). Applicants respectfully traverse the rejection.

Fischer et al. (US 4, 302, 480) discloses a thin cover sheet for use in microscopic staining. The cover sheet consists of a transparent, water insoluble *plastic* carrier with a dried coating having a colorant thereon. Thus, Fischer's cover sheet covers a specimen in order to stain the specimen. It is not to be used for long term storage of a specimen. As seen in Fischer at column 2, lines 25-34, the cover sheet coating is not an adhesive (i.e., shall not adhere firmly to the microscope slide). After evaluation the cover sheet is removed. See column 5, lines 22-25. Fischer does not teach use of glass cover slips and at Col. 2, lines 24-34 makes a clear distinction between his cover sheet and Picket's (discussed below) cover slip.

Furthermore, at col. 3 lines 32-38, Fischer teaches a layer thickness of between 0.05-0.15 mm. Fischer simply does not teach or suggest a layer thickness of the covering medium between 0.05 and 0.8mm and is particularly silent regarding a layer-thickness tolerance of not more than ± 0.1 mm. In fact Fischer does not discuss tolerance at all. As noted in Applicants' specification on page 3, line 16, a tolerance of not more than ± 0.1 mm produced

very good adhesive properties and long lives.

If the claims are directed to a narrow range, and the reference teaches a broad range, depending on the other facts of the case, it may be reasonable to conclude that the narrow range is not disclosed with "sufficient specificity" to constitute an anticipation of the claims. See, e.g., *Atofina v. Great Lakes Chem. Corp.*, 441 F.3d 991, 999, 78 USPQ2d 1417, 1423 (Fed. Cir. 2006) wherein the court held that a reference temperature range of 100-500 degrees C did not describe the claimed range of 330-450 degrees C with sufficient specificity to be anticipatory.

Thus, Fischer does not teach a glass cover slip and is silent regarding a covering medium having a layer thickness of between 0.05 and 0.8mm. Fischer is particularly silent regarding a tolerance of not more than ± 0.1 mm for the layer thickness.

Rejections under 35 USC §103

Claims 3 and 9 stand rejected under 35 USC §103 as allegedly being unpatentable over Fischer et al. (US 4,302, 480). Claim 4 stands rejected under 35 USC §103 as allegedly being unpatentable over Fischer et al. (US 4,302, 480) in view of Picket et al (US 3,498,860). Applicants respectfully traverse the rejections. Claim 7 stands rejected under 35 USC §103 as allegedly being unpatentable over Fischer et al. (US 4,302, 480) in view of Markovits et al (US 4,011,350)

As noted above, Fischer discloses removable plastic cover sheets for staining specimens. A skilled worker looking for long-term storage of specimens would not look to Fischer's staining technique for guidance. Fischer's invention does not deal with glass cover slips and Fischer is particularly silent regarding a covering medium having a layer thickness between 0.05 and 0.8 mm and a layer-thickness tolerance of not more than ± 0.1 mm.

Picket et al (US 3,498,860) teaches a pre-coated cover slip. As noted on page 3 of the specification, Picket's invention does not work as expected. Picket's coated cover slips only exhibit moderate adhesive properties and frequently become detached again after a short time. Picket does not teach or suggest a covering medium having a layer thickness between 0.05 and 0.8 mm and a layer-thickness tolerance of not more than ± 0.1 mm. In fact, Picket does not discuss layer thickness at all.

Markovits et al (US 4,011,350) teaches a method of making a microscope slide assembly having a fluorocarbon layer with forms wells on the slide. Agar may be placed in the wells to provide an adhesive layer that prevents organisms from being washed off. The cover slips of Markovits are not coated.

Markovits does not cure the deficiencies of Fischer. Neither reference teaches or suggests a cover slip coating. Nor do they teach or suggest a coating having a layer thickness between 0.05 and 0.8 mm and a layer-thickness tolerance of not more than ± 0.1 mm.

Thus, neither Picket nor Markovits cures the deficiencies of Fischer. None of the cited references teach or suggest the layer thickness of the present invention and all references are silent regarding tolerance. As noted in the specification on page 3, "If the layer thickness varies over a tolerance of ± 0.1 mm, the cover slip frequently becomes detached from the specimen at some points after only a short time. The specimen consequently ages prematurely and can no longer be investigated microscopically. An optimum storage stability and durability was evident in the case of coatings having a thickness of between 0.05 and 0.8 mm, preferably between 0.1 and 0.4 mm, and a layer-thickness tolerance of not more than ± 0.1 mm, preferably not more than ± 0.05 mm, particularly preferably not more than ± 0.02 mm."

Based on the above remarks it is respectfully requested that the rejections under 35 USC §102 and §103 be withdrawn.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,
/Anthony Zelano/

Anthony J. Zelano, Reg. No. 27,969
Attorney for Applicants

/Jennifer Branigan/

Jennifer Branigan, Reg. No. 40,921
Agent for Applicants

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201
Direct Dial: 703-812-5311
Facsimile: 703-243-6410
Attorney Docket No.:MERCK-3235

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